

# Notice of Allowability

Application No.

10/675,069

Examiner

Nihir Patel

Applicant(s)

FETTERS, THOMAS ALLEN

Art Unit

3743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09.23.2003.
2. ☒ The allowed claim(s) is/are 1-29.
3. ☒ The drawings filed on 09.23.2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 02.09.2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

Henry Bennett  
Supervisor Patent Examiner  
Group 3700

**DETAILED ACTION*****Reason for Allowance***

The following is an examiner's statement of reasons for allowance: Claims 1 through 29 of application number 10/675069 are allowable over the prior art of record in that the breathing gas system comprises a primary breathing gas source; a primary gas delivery passageway for conveying breathing gas at a first operating pressure, the passageway in fluid communication with the primary breathing gas source and a breathing mask; a check valve disposed in the primary gas delivery passageway; a first valve responsive to primary breathing gas pressure, the first valve having a chamber in fluid communication with the primary gas delivery passageway, the first valve having a first valve passageway capable of alternating between an open and closed configuration, in the open configuration the first valve passageway is in fluid communication with an inlet to a first flow restrictor leading to a vent; a second valve responsive to primary breathing gas pressure, the second valve having a chamber disposed in fluid communication with the outlet of a second flow restrictor, the second flow restrictor having an inlet in fluid communication with the primary gas delivery passageway, the chamber also disposed in fluid communication with the passageway in the first valve, the second valve having a passageway capable of alternating between an open and closed configuration, in the open configuration the passageway is in fluid communication with a secondary breathing gas source and is in fluid communication with the breathing mask; the secondary breathing gas source capable of delivering secondary breathing gas at a second operating pressure; and wherein the first and second valves are normally closed by the pressure of the primary breathing gas until a reduction of the primary breathing

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gas pressure causes the first valve to open, the opening of the first valve resulting in the primary breathing gas flowing to the vent, the venting of the primary breathing gas from the chamber of the second valve causing the second valve to open which allows secondary breathing gas to flow to the breathing mask.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nihir Patel whose telephone number is (703)306-3463. The examiner can normally be reached on 7:30 to 4:30 every other fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Bennett can be reached on 703-308-0101. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

NP  
August 6<sup>th</sup>, 2004

Henry Bennett  
Supervisory Patent Examiner  
Group 5700